
By: **Delegates Carter, Anderson, Dumais, Gutierrez, Howard, Marriott,
Nathan-Pulliam, Oaks, Paige, Patterson, Ramirez, Rosenberg, and
Vallario**

Introduced and read first time: February 3, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Expungement - Nonjailable Offenses**

3 FOR the purpose of authorizing a person to file a petition for expungement of a police,
4 court, or other record if the charge is not punishable by a term of imprisonment
5 under certain circumstances; prohibiting the filing of a petition for
6 expungement of records of a nonjailable offense within a certain amount of time
7 after the disposition of the charge; and generally relating to expungement of
8 records of charges for nonjailable offenses.

9 BY repealing and reenacting, with amendments,
10 Article - Criminal Procedure
11 Section 10-105
12 Annotated Code of Maryland
13 (2001 Volume and 2003 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Criminal Procedure**

17 10-105.

18 (a) A person who has been charged with the commission of a crime, including
19 a violation of the Transportation Article for which a term of imprisonment may be
20 imposed, may file a petition listing relevant facts for expungement of a police record,
21 court record, or other record maintained by the State or a political subdivision of the
22 State if:

- 23 (1) the person is acquitted;
- 24 (2) the charge is otherwise dismissed;

1 (3) a probation before judgment is entered, unless the person is charged
2 with a violation of § 21-902 of the Transportation Article or Title 2, Subtitle 5 or §
3 3-211 of the Criminal Law Article;

4 (4) a nolle prosequi is entered;

5 (5) the court indefinitely postpones trial of a criminal charge by marking
6 the criminal charge "stet" on the docket;

7 (6) the case is compromised under § 3-207 of the Criminal Law Article;

8 (7) the charge was transferred to the juvenile court under § 4-202 of this
9 article; [or]

10 (8) the person:

11 (i) is convicted of only one criminal act, and that act is not a crime
12 of violence; and

13 (ii) is granted a full and unconditional pardon by the Governor; OR

14 (9) **THE CHARGE IS NOT PUNISHABLE BY A TERM OF IMPRISONMENT.**

15 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a
16 person shall file a petition in the court in which the proceeding began.

17 (2) If the proceeding began in one court and was transferred to another
18 court, the person shall file the petition in the court to which the proceeding was
19 transferred.

20 (3) (i) If the proceeding in a court of original jurisdiction was appealed
21 to a court exercising appellate jurisdiction, the person shall file the petition in the
22 appellate court.

23 (ii) The appellate court may remand the matter to the court of
24 original jurisdiction.

25 (c) (1) A petition for expungement based on an acquittal, a nolle prosequi, or
26 a dismissal may not be filed within 3 years after the disposition, unless the petitioner
27 files with the petition a written general waiver and release of all the petitioner's tort
28 claims arising from the charge.

29 (2) A petition for expungement based on a probation before judgment
30 may not be filed earlier than the later of:

31 (i) the date the petitioner was discharged from probation; or

32 (ii) 3 years after the probation was granted.

1 (3) A petition for expungement based on a full and unconditional pardon
2 by the Governor may not be filed later than 10 years after the pardon was signed by
3 the Governor.

4 (4) A petition for expungement based on a stet or a compromise under §
5 3-207 of the Criminal Law Article may not be filed within 3 years after the stet or
6 compromise.

7 (5) A PETITION FOR EXPUNGEMENT FILED IN ACCORDANCE WITH
8 SUBSECTION (A)(9) OF THIS SECTION MAY NOT BE FILED WITHIN 5 YEARS AFTER THE
9 DISPOSITION OF THE CHARGE.

10 [(5)] (6) A court may grant a petition for expungement at any time on a
11 showing of good cause.

12 (d) (1) The court shall have a copy of a petition for expungement served on
13 the State's Attorney.

14 (2) Unless the State's Attorney files an objection to the petition for
15 expungement within 30 days after the petition is served, the court shall pass an order
16 requiring the expungement of all police records and court records about the charge.

17 (e) (1) If the State's Attorney files a timely objection to the petition, the
18 court shall hold a hearing.

19 (2) If the court at the hearing finds that the person is entitled to
20 expungement, the court shall order the expungement of all police records and court
21 records about the charge.

22 (3) If the court finds that the person is not entitled to expungement, the
23 court shall deny the petition.

24 (4) The person is not entitled to expungement if:

25 (i) the petition is based on the entry of probation before judgment,
26 a nolle prosequi, or a stet, or the grant of a pardon by the Governor; and

27 (ii) the person:

28 1. since the full and unconditional pardon or entry, has been
29 convicted of a crime other than a minor traffic violation; or

30 2. is a defendant in a pending criminal proceeding.

31 (f) Unless an order is stayed pending an appeal, within 60 days after entry of
32 the order, every custodian of the police records and court records that are subject to
33 the order of expungement shall advise in writing the court and the person who is
34 seeking expungement of compliance with the order.

35 (g) (1) The State's Attorney is a party to the proceeding.

1 (2) A party aggrieved by the decision of the court is entitled to appellate
2 review as provided in the Courts Article.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2004.